

EL PASO PRODUCTS CO.

IBLA 72-460

Decided March 9, 1973

Appeal from decision by Colorado State Office, Bureau of Land Management, rejecting oil and gas lease offer C-16280.

Affirmed as modified.

Administrative Procedure: Adjudication -- Appeals -- Secretary of the Interior

The Board, as the delegate of the Secretary of the Interior, is obliged to consider everything contained in the record in determining all matters relevant to the disposition of an appeal.

Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Lands  
Subject to -- Oil and Gas Leases: Noncompetitive Leases -- Oil and Gas Leases:  
Patented or Entered Lands

An oil and gas offer must be rejected when the land applied for has been leased to a senior offeror under a proper offer or has been patented with no reservation of oil and gas.

APPEARANCES: Roland O. Hamblin, of Odessa, Texas, for appellant.

OPINION BY MR. FISHMAN

El Paso Products Company has appealed to the Board of Land Appeals, from a decision of the Colorado State Office, Bureau of Land Management, dated June 8, 1972, rejecting its noncompetitive oil and gas lease offer C-16280.

The offer, filed May 15, 1972, was rejected by the State Office for the following reason:

Regulation 43 CFR 3102.7 requires a signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; or if not the sole party in interest, that the names, nature and extent of interest therein of other parties be set forth. Your offer does not show that you are or are not the sole party in interest.

We need not pass upon the correctness of the action below, since the record discloses defects fatal to the offer. The Board is at liberty to consider the entire record in its determinations. See United States v. Leonard F. Nelson, 8 IBLA 294 (1972) [judicial review pending]; United States v. William Leonard Grediagin, 7 IBLA 1 (1972).

Oil and gas offers, C-16175 and C-16177 were filed on April 28, 1972, by Mrs. M. A. Barton for a portion of the lands covered by the case at bar, which was filed on May 15, 1972. Leases were properly issued for C-16175 and C-16177 on June 2 and June 5, 1972, respectively. The remainder of the lands included in the offer at bar, the W 1/2 NW 1/4 sec. 9, T. 32 S., R. 67 W., 6th P.M., Colorado, was patented on December 22, 1910, to Eutimio Gallegos under patent No. 167863 with no reservation of oil and gas. These factors, the leasing of part of the lands to prior offerors under valid offers, and the fact that the remaining lands were patented with no reservation of oil and gas, dictate the rejection of the offer in issue. See Duncan Miller, A-30393 (June 30, 1965); Duncan Miller, A-30270 (May 5, 1965); Transco Gas & Oil Corp., et al., 61 I.D. 85, 88 (1952).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the State Office decision is affirmed as modified.

Frederick Fishman, Member

We concur:

Martin Ritvo, Member

Anne Poindexter Lewis, Member.

